

Exhibit 1

APPROVED ARB-CEC JOINT POLICY STATEMENT OF COMPLIANCE
WITH AIR QUALITY LAWS BY NEW POWER PLANTS

I. Preamble

This policy will insure an adequate supply of electrical energy while allowing continued improvements in California's air quality. California air quality laws are essential to protect public health and welfare. At the same time, protection of the public health and welfare requires an adequate electrical energy supply. This statement sets forth a procedure for the expeditious approval of needed power plants in a manner that fully preserves the integrity of California's air quality program.

Under this statement, California's utilities are obligated to use the most advanced pollution controls on their new plants and to mitigate fully the adverse effects of the remaining air emissions. At the same time, however, the Energy Commission and air quality regulatory agencies have an obligation to inform utilities and the public early in the planning process of the permissible locations and conditions for new power plants. The actions of all involved parties must be directed toward expeditious, coordinated and well reasoned decisions. With the implementation of this procedure, any irreconcilable conflict between the needs for clean air and adequate electric power will be avoided.

II. General Provisions

A. Contents of Regulatory Documents: The Energy Commission shall be guided by the contents of this policy statement in adopting its amended NOI/AFC Regulations and in any other actions affecting compliance with air quality laws. The ARB shall be similarly guided in adopting its revised model New Source Review rule to be used by local districts and any other actions affecting siting of new power plants.

B. Reimbursement: Pursuant to the provisions of Public Resources Code Section 25538, each local district shall be reimbursed for such added costs, including lost fees, that are actually incurred by the district in complying with any request or duty specified in this statement.

III. NOI Proceeding

A. Filing Requirements: The NOI filing shall contain the information described in Appendix A. Failure of the NOI filing to contain all of the necessary information shall result in a rejection of the filing by the Commission.

B. Procedure: The Commission shall forward a copy of the NOI to each local district within which a site is located and request their participation in the NOI proceeding. Within fourteen days of receipt of the NOI, each district shall notify the ARB and the Commission of their intent to participate in the NOI proceeding. The ARB shall fulfill the NOI-related duties and obligations of each district that fails to participate. Each

local district within which a site is located (or ARB) shall prepare and submit a report prior to the conclusion of the non-adjudicatory hearings specified in Section 25509.5 of the Public Resources Code. That report shall include, at a minimum:

- (1) a preliminary specific definition of best available control technology (BACT) for the proposed facility;
- (2) a preliminary discussion of whether there is substantial likelihood that the requirements of the applicable New Source Review rule and all other applicable air quality regulations can be satisfied by the proposed facility;
- (3) a preliminary list of conditions which the proposed facility must meet in order to comply with the applicable New Source Review rule or any other applicable air quality regulation.

The preliminary determinations contained in the report shall be as specific as possible within the constraints of the information contained in the NOI. The ARB shall review and prepare written comments on all reports prepared by local districts.

If, in the opinion of the ARB, based on the determinations of the local districts, none of the proposed sites has a substantial likelihood of meeting the requirements of the applicable air quality regulations, the Commission staff and ARB, in consultation with the local districts and prior to the conclusion of the nonadjudicatory hearings, shall propose an

alternative siting area for the proposed facility in or near the Applicant's service area which might have a greater likelihood of meeting the applicable air quality regulations and merits further study. That proposal shall include the reasons therefore. If such a proposal is filed, the presiding Commissioner may direct the Applicant to evaluate major siting constraints of the proposed alternative for presentation at the adjudicatory hearings described in Section 25513 of the PRC. Findings and conclusions on these proposed alternatives shall be included in the Commission's final report and decision.

At the request of the presiding Commissioner, any person submitting a report on air quality compliance shall testify in support of that report at any hearings on the NOI. In addition, the Air Pollution Control Officer and the ARB shall, at the direction of the presiding Commissioner, update the information provided in their respective reports in response to changes in the Applicant's proposal which may occur during the NOI proceeding. The Air Pollution Control Officer may also comment on the final report on the NOI consistent with the information contained in the District's report.

C. Decision: The Commission shall not approve any site and related facility unless there is a substantial likelihood that the facility will meet the applicable air quality regulations at that site. Only in the event that the Commission determines that

the facility is urgently needed, the Applicant has made a good faith effort to find acceptable alternative sites and related facilities, and no approvable site has been identified as having a substantial likelihood of compliance may the Commission approve the single site and related facility that is otherwise acceptable and that is most likely to meet all applicable air quality regulations.

Notwithstanding the above, local regulations which the ARB determines are unnecessary for the protection of air quality shall not restrict the number of sites considered.

IV. AFC Proceeding

A. Filing Requirements: Immediately upon the filing of the AFC with the Commission, the Executive Director shall transmit a copy of the AFC to the local district for a Determination of Compliance review. The AFC shall contain all of the information required by the local district for an Authority to Construct under the applicable New Source Review rule; provided, however, that the Applicant need not submit information that requires final plant design or selection of equipment vendors. If the AFC fails to contain such information, the Air Pollution Control Officer shall so inform the Commission within 20 days of receipt of the filing, and the AFC shall be returned to the Applicant for resubmittal.

The APCO or ARB may request from the Applicant any information reasonably necessary for the completion of the Determination of Compliance review. If the APCO or ARB is unable to obtain the information, either agency may petition the presiding Commissioner

for an order directing the Applicant to supply such information.

B. Procedure: Within 240 days of the filing date^{1/}, or such shorter period as the ARB shall reasonably determine, the APCO shall issue and submit to the Commission a Determination of Compliance on whether the proposed facility meets the requirements of the applicable New Source Review rule and all other applicable district regulations. If the proposed facility complies, the APCO shall specify what permit conditions, including BACT and mitigation measures, are necessary. If the proposed facility does not comply, the APCO shall identify the specific regulations which would be violated by the proposed facility and the basis for determining such violation. In the event of such noncompliance, the APCO shall further identify those regulations with which the proposed facility would comply, including required BACT and mitigation measures. The APCO shall provide an opportunity to be heard to the Applicant and other interested parties. The APCO determination shall be subject to appeal to the ARB to the extent permitted by State Law.

At the direction of the Commission, the APCO and ARB shall make available a witness at the hearings held on the AFC to explain the Determination of Compliance. Any amendment to the Applicant's proposal related to compliance with air quality laws shall be

^{1/} If the decision on the AFC is required to be rendered within 12 months, the report shall be submitted within 6 months of the filing date.

transmitted to the APCO and ARB for consideration in the local district's Determination of Compliance.

C. Decision: The Commission APC decision shall include findings and conclusions on conformity with air quality requirements based on the Determination of Compliance. If the Determination of Compliance concludes that the facility as proposed by the Applicant will comply with all applicable air quality requirements, the Commission shall include in its certification any and all conditions necessary to insure compliance. If the Determination of Compliance concludes that the proposed facility will not comply with all applicable air quality requirements, the Commission shall direct its staff to meet and consult with the applicant and agency concerned to attempt to correct or eliminate the noncompliance.

If the noncompliance cannot be corrected or eliminated, the Commission shall determine whether the facility is required for the public convenience and necessity and whether there are not more prudent and feasible means of achieving such public convenience and necessity. Only when such a determination is made and the proposed facility will meet all provisions and schedules required by the Clean Air Act, may the Commission certify the proposed new facility. When certifying a facility under such conditions the Commission shall require compliance with all applicable air quality requirements that can be met.

V. Enforcement:

The Determination of Compliance and the procedure described in this statement shall serve the purpose of an Authority to Construct. The issuance of a certificate by the Commission, using the procedure described in this statement, shall confer the same rights, privileges and enforcement powers as an Authority to Construct. The APCO shall issue a permit to operate if the facility complies with the conditions contained in the CEC Certificate.

The issuance of a Determination of Compliance shall not be considered a final determination of whether the facility can be constructed or operated. The final decision of the Commission based upon the procedure described in this statement shall be the final action on all issues related to certification of the facility.


Dated:

2/2/79



RICHARD L. MAULLIN
Chairman
California Energy Commission

Dated: 3/8/79



THOMAS QUINN
Chairman
California Air Resources Board

Appendix A: Information Requirements for NOI Filing

The following is a description of the requirements for submission of air quality information in a notice of intention filing as applicable to a fossil fueled power plant. These requirements are designed to lead to a determination of whether there is substantial likelihood of compliance with applicable air quality regulations.

1. Project description including typical fuel type and characteristics (BTU content, maximum sulfur and ash content), design capacity, proposed air emission control technologies, stack parameters (assumed height, diameter, exhaust velocity and temperature) and operational characteristics (heat rate, expected maximum annual and daily capacity factor). This information may be based upon typical data for a facility of the proposed type and design.
2. Description of cooling systems, including approximate drift rate, water flow and water quality (TDS content).
3. Projected facility-related emissions from the stack and combustion system, from cooling towers and from associated fuel and other material handling, delivery and storage systems to the extent that the applicable New Source Review rule requires attributing these sources to the proposed project. The emissions discussion should

include a discussion of the basis of the estimate, such as test results, manufacturers' estimates, extrapolations and all assumptions made.

4. A list of all applicable air quality rules, regulations, standards and laws.
5. A statement, including the reasons therefor, of what the Applicant considers best available control technology as defined in the applicable district's New Source Review rule.
6. Existing baseline air quality data for all regulated pollutants affected by the proposed facility including concentrations of pollutants, an extrapolation of that data to the proposed site, and a comparison of the extrapolated data with all applicable ambient air quality standards. This discussion should include a description of the source of the data, the method used to derive the data and the basis for any extrapolations made to the proposed site.
7. Existing meteorological data including wind speed and direction, ambient temperature, relative humidity, stability and mixing height, and existing upper air data; and a discussion of the extent to which the data are typical conditions at the proposed site. This description should include a discussion of the source of the data and the method used to derive the data.

8. A worst case air quality analysis for each proposed site and related facility to determine whether the plant may cause or contribute to a violation of each applicable ambient air quality standard. Such analysis shall include a description of the methodology employed and the basis for the conclusions reached, and shall consider topography, meteorology and contributions from other sources in the area.
9. A discussion of the emission offset strategy or any other method of complying with the applicable New Source Review rule. The emission offset strategy shall be designed to show whether there are sufficient offsets available; contracts are not required. Offset categories (e.g. dry cleaners, degreasers) and an inventory of potential reductions may be used unless most of the potential offsets come from a very small number of sources. In the latter case, the offset sources should be more specifically identified. Potential offsets may be aggregated by geographic location as appropriate under the applicable rule.^{1/} The offset discussion should also include a brief description of the emissions controls to be used for each offset category and should account

^{1/} For example, all offsets in the basin may be aggregated together if the rule applies -- the same offset ratio to all offsets within the basin. However, if a small ratio is applied within a specified radius, offsets within that radius should be separately aggregated.

for applicable rules requiring emission reductions. In the event there is no emissions inventory available from the ARB or from the applicable local district, the Applicant may propose an alternative method for complying with this requirement.

10. Based upon worst case data for analysis for short-term averaging times and typical data for analysis for annual averaging times, a discussion of whether the proposed facility will be within PSD Class I and Class II increments.